

Application No.: 09/401,618
August 29, 2002

Response After Final
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Applicants note that the section headings of the comments presented below, correspond to those of the Office Action of April 26, 2002.

Claim Rejections – 35 USC §102

In the official action claims 27-30, 33-39 and 41-46 were rejected as being anticipate under §102(b) as being anticipated by Forman or in the alternative, under §103(a) as being obvious over Forman.

Regarding claims 27-28 and 45, in the official action Forman is said to disclose the invention of the instant claims. Specifically, the official action states that Forman discloses a process of removing material from a balloon by laser ablation, which can be considered as a chemical-etching process.

In response, Applicant must respectfully disagree with the assertion that laser ablation such as described in Forman can be considered as a chemical etching process. Forman mentions that the application of excimer laser energy to a polymeric material may be considered to have “photo-chemical” aspects (column 4, lines 5-7). However, there is simply nothing in Forman or the art as a whole which teaches or suggests that a process having “photo-chemical” aspects, such as the process of laser ablation as described in Forman, is somehow equivalent to a chemical etching process, such as is described in the instant claims. In support of Applicants’ position, a §1.132 Declaration by Dr. Lixiao Wang is included herewith. The Declaration further illustrates that to one of ordinary skill in the art laser ablation is not a form of chemical etching despite the assertion of the Final Office Action to the contrary.

It is well settled that in order to anticipate a claim and render it invalid, a single prior art reference must expressly or inherently disclose each and every element as set forth in the claim. *Constant v. Advanced Micro Devices, Inc.*, No. 88-1101, slip op. at 21 [7 USPQ2d 1057, 1064] (Fed. Cir. June 9, 1988); *Verdegaal Brothers, Inc. v. Union Oil Co.*, 814 F.2d 628, 631-33 [2 USPQ2d 1051, 1052-54] (Fed. Cir.), cert. denied, 108 S.Ct. 95 (1987); *Structural Rubber*